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2024-PHHC-172848



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-24798-2013 (O&M)

Reserved on : 11.08.2023

Pronounced on : 04.01.2024

Ranbir Singh and others**...Petitioners**

Vs.

The State of Punjab and others**...Respondents****CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. K.L. Arora, Advocate
for the petitioners.

Mr. T.P. S. Walia, AAG, Punjab.

Mr. Vikas Chatrath, Advocate,
Mr. Rajbir Singh, Advocate,
Mr. BPS Thakur, Advocate and
Mr. Dharamvir Singh, Advocate
for respondents Nos . 2 to 4.

DEEPAK MANCHANDA, J.

Through this writ petition, petitioners have raised their grievance for implementation of 5th Punjab Pay Commission Report and for the benefit of revised pay scale to the petitioners w.e.f.01.01.2006 with all consequential benefits i.e. re-fixation of pay, arrears etc. along with interest @ 12% per annum on delayed payment from the due date till its realization as it has been granted to other similarly situated employees in different districts by the same department i.e. District Red Cross Society located in the State of Punjab.

2. The facts emanating from the pleadings of the present case are that petitioners are employees of respondent Nos. 2 to 4, i.e. District Red Cross

Society Hoshiarpur. The prayer in this petition has been made for implementation of 5th Punjab Pay Commission w.e.f.01.01.2006, where benefit of revised pay scale to the petitioners has not been given even though other Red Cross Societies of different districts have already implemented the 5th Punjab Pay Commission Report and gave all the benefits of revised pay scale to its regular employees w.e.f.01.01.2006.

3. Aggrieved against the said action of the respondents, petitioners submitted their representations dated 16.05.2013 and 02.07.2013 to respondent Nos. 2 and 3 for rectification of the date mentioned therein for granting benefit from 01.01.2006 instead of 01.04.2013, which had been wrongly mentioned. Thereafter, the legal notice dated 27.08.2013 (Annexure P-2) was also served upon respondent Nos.1 to 3 with a similar prayer, which had been replied vide reply dated 03.10.2013 denying the benefit of revised pay scale on the ground that recommendations of 5th Pay Commission do not apply to the staff/employees of the Red Cross Society. Being aggrieved against the same, the present writ petition has been filed.

4. Learned counsel for the petitioners contends that the respondents have earlier implemented the Pay Commission for the year 1989 instead of 01.01.1986 and in the year 1999 instead of 01.01.1996 and petitioners have been discriminated amongst its class where other district branches of the Indian Red Cross Society in Punjab have already implemented the 5th pay Commission Report qua their employees and petitioners have been deprived from the said benefit without any reason.

5. Learned counsel for the respondent Nos.2 to 4 while referring to the reply filed by them has submitted that recommendation of the 5th Pay Commission do not apply to the employees of the Red Cross Society as it is a charitable institution where no budget/aid is granted to the Society by the

Central/State Government. Learned counsel further submits that the functions of the Red Cross Society of each District are regulated by the separate executive committee of each District, and resolutions adopted by one executive committee of one District are not binding upon the executive committee of another district. It is further submitted that the financial position of the District Red Cross Society, Hoshiarpur, is depleting every year due to escalating expenditure, and the funds available with the Society are meant to be used for administrative and establishment expenses only. Learned counsel for the respondents has also argued that the petitioners were appointed under category of temporary appointments so they are not entitled to any benefit of 5th Punjab Pay Commission as the Society is not a State nor its employees are governed by the service rules of Punjab Government instead the District Red Cross Society is charitable institution and run its activities through funds raised by itself by way of donations contributions, fare and fetes and license fee etc.

6. I have heard learned counsel for the parties.

7. After perusing the pleadings as well as material available on record, the question before this Court for adjudication is that whether the petitioners are entitled for the benefit of revised pay scale w.e.f.01.01.2006 being the employees of Red Cross Society.

8. This Court is in agreement with the statement made by learned counsel for the respondents that Red Cross Society i.e. respondent Nos.2 to 4 is a charitable institution and Punjab Government Rules do not apply to the service of the petitioners where they were appointed purely on the temporary basis on the recommendations of the selection committee of the Society and their tenure and duties are determined by the President of the Society. Further, the respondent Nos.2 to 4 being charitable institution was constituted to discharge the obligations dissolving upon the Society as laid down by the Act

and to achieve the objectives thereon, where the expenditure is met out with the funds received by the Society by holding Red Cross fares and other incomes received from different sources. There is nothing on record to show whether the State or Central Government is financially aiding for the purpose of employees salaries or even otherwise. Moreover, nothing has been brought on record by the petitioners contrary to the stand taken by respondent Nos.2 to 4 where they have specifically alleged discrimination by stating that the employees of other districts Red Cross Society had been granted benefit of 5th Pay Commission on account that the Red Cross Society of each District is regulated by the separate executive committee of each District by resolving resolution passed by it and as such the resolution/decision taken adopted by one executive committee of one District is not binding upon executive committee of another district.

9. The perusal of material available on record shows that the Society did not adopt recommendations of the Punjab Pay Commission due to the financial crunch and its cumulative effects on the future aspect of the Society's financial position. It is clarified in the reply that during the year 1986 and 1996, the financial position of the District Red Cross Society, Hoshiarpur i.e. respondent Nos.2 to 4 was good because of the good income of the Society from different sources like receipt of donations etc. and the Society was in a position to pay salary of its employees and at that time according to the recommendations of the Pay Commission Report before 1986 and 1996, the salaries of the employees were enhanced.

10. The affidavit dated 31.01.2020 filed by respondent No.2, along with the statements of accounts, is also on record. The perusal of the same reveals that the Society's funds have been raised for the primary purpose of social welfare of the Society and poor persons of the District, and

establishment expenses are being paid out of the same. It is also clear from the affidavit that the Society does not get any financial aid from the Government and is totally dependent on general donations from donors.

11. As argued by learned counsel for the respondents, every Society of other districts has its own rules pertaining to that Society's employees. Simply because employees of the other societies were granted benefits at any point of time by the district society concerned, petitioners are not entitled to seek parity of pay scales for all time with employees of the Punjab Government, i.e. respondent No.1.

12. It is admitted that respondent No.1-State may be giving grants to the District Red Cross Societies from time to time, given the nature of the social work that each Society does, such a grant is not a matter of right of any society. Each Society has to depend on its methods of raising funds from the general public, the Government, and other organisations to enable it to carry out its social work. No statute or subordinate legislation, or any rules framed thereunder, have been brought to the notice of this Court, by which employees of the District Red Cross Society/District Branch of the Indian Red Cross Society are entitled to parity of pay scales with Government employees.

13. On the other hand, as already discussed in detail, each Society at the district level determines the kind of and the number of employees it needs to employ to carry out the purposes of the Society. That implies that the pay/pay scales of each employee that such a Society employs must be determined by the employer, i.e. the district level society. When each district unit is an independent organization, even with some control by the State level society and the apex body, as regards carrying out the purposes of the Red Cross is concerned, parity of pay scales, between employees of one District Red Cross Society to another, also cannot be claimed as a matter of right, in the

absence of any rules made by the apex society, adopted by each district level society. Admittedly, no such laws exist by which employees of district-level societies must be given specific pay scales determined by the apex society. Hence, the question of seeking any parity with Government employees, in any case, in perpetuity, just because the initial pay scale of the petitioner was the same as that of Government employees, does not arise at all.

14. This Court, while dealing with the present issue in the case of “*Sukhwant Kaur Vs. District Red Cross Society, Moga and another*”, 2015 (19)SCT 505, has held as under:-

21. It may also be noticed here, that it was specifically held, even in the case of Government employees, by a five Judge Bench of the Supreme Court, in Roshan Lal Tandon v. Union of India (AIR 1967 Supreme Court 1889), that simply because Government employees have been granted a particular pay scale at the initial point of their service, does not entitle them to specific pay scales throughout their careers. Thus, if Government employees themselves cannot claim specific pay scales on the basis of their initial pay scales, (in the absence of any specific parameters qua other Government employees), the question of employees of a voluntarily organization/Society to seek parity with Government employees, obviously does not arise. It may also be said here, that simply because the Deputy Commissioner is the ex-officio President of each District Red Cross Society, that can also not bring the petitioner, by any stretch of imagination, within the definition of a Government employee. In fact, as already noticed earlier, the District Red Cross Society, Moga, in its meeting held on 27.10.1997, had restricted the powers of the Deputy Commissioner itself. Obviously, therefore, there is no pervasive control of the Government over the Society. Even if such control existed, that would still not entitle the employees of the Society to be treated at par with Government employees. However, that question, in any case, does not arise, in view of the fact that there is no equation at all, between the Red Cross Society itself and Government.

15. Given the above discussion, this Court finds no merit in the present writ petition. Consequently, the same stands dismissed.

16. Pending application(s), if any, are disposed of.

(DEEPAK MANCHANDA)
JUDGE

04.01.2024
vanita

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No